## House File 382 - Introduced

HOUSE FILE 382 BY KOESTER

## A BILL FOR

- 1 An Act modifying provisions applicable to delayed deposit
- 2 services businesses.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 533D.9, subsections 2 and 3, Code 2013, 2 are amended to read as follows:
- 3 2. A licensee shall give to the maker of the check, at the
- 4 time any delayed deposit service transaction is made, or if
- 5 there are two or more makers, to one of them, notice written in
- 6 clear, understandable language disclosing all of the following:
- 7 a. The fee to be charged for the transaction.
- 8 b. The annual percentage rate as computed pursuant to the
- 9 federal Truth in Lending Act.
- 10 c. The date on which the check will be deposited or
- 11 presented for negotiation.
- 12 d. Any penalty, not to exceed fifteen dollars, which the
- 13 licensee will charge if the check is not negotiable on the
- 14 date agreed upon. A penalty to be charged pursuant to this
- 15 section shall only be collected by the licensee once on a check
- 16 no matter how long the check remains unpaid. A penalty to be
- 17 charged pursuant to this section is a licensee's exclusive
- 18 remedy and if a licensee charges a penalty pursuant to this
- 19 section no other penalties under this chapter or any other
- 20 provision apply.
- 21 e. That the licensee cannot initiate debt collection
- 22 procedures, civil court proceedings, or arbitration to collect
- 23 an unpaid check unless the licensee has provided the maker of
- 24 the check the opportunity to agree to repay the obligation as
- 25 provided in section 533D.9A.
- 26 3. a. In addition to the notice required by subsection
- 27 2, every licensee shall conspicuously display a schedule of
- 28 all fees, charges, and penalties for all services provided by
- 29 the licensee authorized by this section. The notice shall be
- 30 posted at the office and every branch office of the licensee.
- 31 b. A licensee shall not accept payment from a maker of a
- 32 check who appears in person at the delayed deposit services
- 33 business location for the purpose of repaying the obligation in
- 34 lieu of the check being deposited or presented for negotiation
- 35 without first providing written notice of the installment

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- 1 payment option provided in subsection 2.
- 2 Sec. 2. NEW SECTION. 533D.9A Installment payments —
- 3 requirements.
- A licensee shall not initiate debt collection
- 5 procedures, civil court proceedings, or arbitration to collect
- 6 an unpaid check unless the licensee has provided the maker of
- 7 the check the opportunity to agree to repay the obligation
- 8 in biweekly installments, or installments that correspond to
- 9 the maker's next four paydays if the pay period is more than
- 10 a week in duration and less than two weeks in duration. A
- 11 licensee may not require the maker of a check to pay more than
- 12 twenty-five percent of the obligation in any one installment
- 13 payment, but the maker of the check may elect to pay a larger
- 14 amount.
- 15 2. In lieu of the penalty imposed pursuant to section
- 16 533D.9, subsection 2, paragraph "d", a one-time fee of ten
- 17 dollars shall be charged at the time the installment agreement
- 18 is entered into. During the repayment period, a licensee may
- 19 not transfer or sell the debt owing on the unpaid check, and
- 20 the loan shall not be considered to be in default. The maker
- 21 of the check's failure to make a payment under the installment
- 22 arrangement shall place the loan in default and the licensee
- 23 may, after proper notice, exercise rights against the maker
- 24 under the law.
- Sec. 3. Section 533D.10, subsection 1, Code 2013, is amended
- 26 by adding the following new paragraph:
- 27 NEW PARAGRAPH. q. Engage in deception, misrepresentation,
- 28 or subterfuge intended to evade the requirements of this
- 29 chapter.
- 30 EXPLANATION
- 31 This bill modifies provisions applicable to delayed deposit
- 32 services businesses.
- The bill provides that a delayed deposit services business
- 34 licensee must disclose to a maker of a check that the licensee
- 35 cannot initiate debt collection proceedings to collect an

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- 1 unpaid check unless the licensee has provided the maker of the
- 2 check the opportunity to agree to repay the obligation. The
- 3 bill provides that the obligation may be repaid in biweekly
- 4 installments or installments that correspond to the maker's
- 5 next four paydays if the duration of the pay period is more
- 6 than a week but less than two weeks, that a licensee may not
- 7 require the maker of a check to pay more than 25 percent of
- 8 the obligation in any one installment payment, and that in
- 9 lieu of the \$15 penalty otherwise applicable if payment is not
- 10 made, a one-time fee of \$10 shall be charged at the time the
- ll installment agreement is entered into. The bill adds that it
- 12 must also be disclosed that during the repayment period the
- 13 licensee may not transfer or sell the debt owing on the unpaid
- 14 check, and the loan shall not be considered to be in default
- 15 until the maker of the check fails to make a payment under the
- 16 installment arrangement.
- 17 The bill provides that a licensee shall not accept payment
- 18 from a maker of a check who appears in person at the delayed
- 19 deposit services business location for the purpose of repaying
- 20 the obligation in lieu of the check being deposited or
- 21 presented for negotiation without first providing written
- 22 notice of the installment payment option.
- 23 The bill provides that engaging in deception,
- 24 misrepresentation, or subterfuge intended to evade the
- 25 requirements of Code chapter 533D shall be considered
- 26 a prohibited act subject to the Code chapter's penalty
- 27 provisions, which include suspension or revocation of a license
- 28 and a civil penalty of up to \$5,000 per violation.